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5 Attorneys for Plaintiffs  
HAND & NAIL HARMONY, INC.  
6 NAIL ALLIANCE, LLC, AND  
NAIL ALLIANCE – ARTISTIC, INC.  
7

8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA

10 HAND & NAIL HARMONY, INC., a  
California corporation; NAIL  
11 ALLIANCE, LLC, a Delaware  
corporation; and NAIL ALLIANCE –  
12 ARTISTIC, INC., a Delaware  
corporation

13 Plaintiffs,  
14

15 v.

16 TEXAS NAILS & BEAUTY SUPPLY,  
an Texas business entity; TONY LEE,  
17 an individual; DOOR TO DOOR NAIL  
SUPPLY, a California business entity;  
18 NAIL SUPPLY INC, a New York  
business entity, SALON SUPPLY  
19 STORE, a Florida limited liability  
company, and DOES 1 through 30,  
20 inclusive.

21 Defendants.  
22

CASE NO.:

COMPLAINT FOR:

(1) UNFAIR COMPETITION (CALIF.  
BUS. & PROF. CODE § 17200);

(2) TRADEMARK INFRINGEMENT  
(15 U.S.C. § 1114);

(3) FEDERAL UNFAIR  
COMPETITION (15 U.S.C. §  
1125(a);

(4) COPYRIGHT INFRINGEMENT (17  
U.S.C. § 501);

(5) BREACH OF CONTRACT; and

(6) COMMON LAW UNFAIR  
COMPETITION

23  
24 Plaintiffs HAND & NAIL HARMONY, INC. (“Harmony”), NAIL  
25 ALLIANCE, LLC (“Nail Alliance”), and NAIL ALLIANCE – ARTISTIC, INC.  
26 (“Nail Alliance Artistic”) (collectively, “Plaintiffs”), by and through their attorneys,  
27 for their Complaint against defendants TEXAS NAILS & BEAUTY SUPPLY  
28

1 (“Texas Nails”), TONY LEE (“Lee”), DOOR TO DOOR NAIL SUPPLY (“Door to  
2 Door”) , NAIL SUPPLY INC. (“Nail Supply”), SALON SUPPLY STORE, LLC  
3 (“Salon Supply”), and DOES 1 through 30 (collectively, “Defendants”), allege as  
4 follows:

### 5 **JURISDICTION AND VENUE**

6 1. This action arises under and this Court has original jurisdiction  
7 pursuant to Title 28 U.S.C. §§ 1331, 1332 and 1338, and supplemental jurisdiction  
8 pursuant to Title 18 U.S.C. § 1367.

9 2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and 18  
10 U.S.C. § 1965(a).

### 11 **PARTIES**

12 3. Harmony is a California corporation with its principal place of business  
13 in Brea, California. Harmony manufactures, distributes and sells, *inter alia*, a  
14 leading brand of high-quality, soak-off gel polishes and other nail care applications  
15 in wide variety of colors under its flagship brand name GELISH® as well as other  
16 brand names, including ARTISTIC COLOUR GLOSS® (collectively the “Harmony  
17 Goods”). The Harmony Goods include high quality gel polishes and nail care  
18 applications, which are sold directly to boutiques and salons in this county and  
19 throughout the world using qualified distributors. In order to promote the Harmony  
20 Goods, Harmony owns several artistic works, including the Harmony Works, as  
21 defined below.

22 4. Nail Alliance is a limited liability corporation duly organized under the  
23 laws of Delaware. Nail Alliance owns certain marks used in connection with the  
24 Harmony Goods, including a portion of the Harmony Marks, as defined below. Nail  
25 Alliance exclusively licenses such marks to Harmony.

26 5. Nail Alliance Artistic is a Missouri corporation with its principal place  
27 of business in Gladstone, Missouri. Nail Alliance Artistic owns certain marks used  
28 in connection with the Harmony Goods, including a portion of the Harmony Marks,

1 as defined below. Nail Alliance Artistic exclusively licenses such marks to  
2 Harmony.

3       6.       Upon information and belief, Texas Nails is a business entity of an  
4 unknown-type with its principal place of business in San Antonio, Texas. Upon  
5 information and belief, Texas Nails obtains, distributes, and sells Harmony Goods in  
6 violation of Plaintiffs' rights as alleged herein. Upon information and belief, Texas  
7 Nails' conduct includes, *inter alia*, removing, defacing, covering, altering, or  
8 destroying Harmony's identification codes from diverted Harmony Goods, and/or  
9 buying or receiving defaced Harmony Goods, in violation of Penal Code section  
10 537e, as well as shipping this contraband without properly identifying or packaging  
11 the flammable goods in violation of the Hazardous Materials Transportation Act of  
12 1975 as amended (49 U.S.C. §§ 5101 *et seq.*). Further, upon information and belief,  
13 Texas Nails owns and operates a fully interactive commercial website at the domain  
14 name www.tonymail.net (the "Texas Nails Website") and sells the contraband to  
15 consumers in California. The website includes hundreds of slavishly copied  
16 reproductions of the Harmony Works, or substantially similar copies of those works,  
17 to promote and perpetuate Texas Nails' unlawful conduct. Attached as Exhibit "A"  
18 is information regarding the identity of Texas Nails and its unlawful operation of the  
19 Texas Nails Website, which is incorporated herein by this reference.

20       7.       Lee is an individual who Plaintiffs are informed and believe resides or  
21 does business in San Antonio, Texas. Upon information and belief, Lee is a  
22 principal, officer, employee, and/or agent of Texas Nails who directs and/or actively  
23 participates in Texas Nails' tortious conduct. Upon information and belief, Lee's  
24 conduct includes, *inter alia*, removing, defacing, covering, altering, or destroying  
25 Harmony's identification codes from diverted Harmony Goods, and/or buying or  
26 receiving defaced Harmony Goods, in violation of Penal Code section 537e, as well  
27 as shipping this contraband without properly identifying or packaging the flammable  
28 goods in violation of the Hazardous Materials Transportation Act of 1975 as

1 amended (49.U.S.C. § 5101 *et seq.*). Upon information and belief, Lee operates,  
2 owns, directs, or otherwise controls the content on the Texas Nails Website, and  
3 upon information and belief, Lee's wrongful conduct further includes unlawfully  
4 copying the Harmony Works, or a substantially similar reproduction of the Harmony  
5 Works, and publishing the unlawful reproductions on the Texas Nails Website.

6 8. Upon information and belief, Door to Door is an unregistered business  
7 entity with its principal place of business in Garden Grove, California. Upon  
8 information and belief, Door to Door obtains, distributes, and sells Harmony Goods  
9 in violation of Plaintiffs' rights as alleged herein. Upon information and belief,  
10 Door to Door's conduct includes, *inter alia*, removing, defacing, covering, altering,  
11 or destroying Harmony's identification codes from diverted Harmony Goods, and/or  
12 buying or receiving defaced Harmony Goods, in violation of Penal Code section  
13 537e, as well as shipping this contraband without properly identifying or packaging  
14 the flammable goods in violation of the Hazardous Materials Transportation Act of  
15 1975 as amended (49 U.S.C. §§ 5101 *et seq.*). Further, upon information and belief,  
16 Door to Door owns and operates a fully interactive commercial website at the  
17 domain name [www.doortodoornailsupply.com](http://www.doortodoornailsupply.com) (the "Door to Door Website") and  
18 sells the contraband to consumers in California. The Door to Door Website includes  
19 hundreds of slavishly copied reproductions of the Harmony Works, or substantially  
20 similar copies of the Harmony Works, to promote and perpetuate Door to Door's  
21 unlawful conduct. Upon further information and belief, Door to Door sells its  
22 contraband through the online marketplace Amazon.com under the alias or name  
23 "Salon Deal," and by and through Amazon.com sells and ships contraband goods to  
24 consumers in California. Attached as Exhibit "B" is information regarding the  
25 identity of Door to Door and its unlawful operation of the Door to Door Website,  
26 which is incorporated herein by this reference.

27 9. Upon information and belief, Nail Supply is an unregistered business  
28 entity with its principal place of business in Brooklyn, NY. Upon information and

1 belief, Nail Supply obtains, distributes, and sells Harmony Goods in violation of  
2 Plaintiffs' rights as alleged herein. Upon information, Nail Supply's conduct  
3 includes, *inter alia*, removing, defacing, covering, altering, or destroying Harmony's  
4 identification codes from diverted Harmony Goods, and/or buying or receiving  
5 defaced Harmony Goods, in violation of Penal Code section 537e, as well as  
6 shipping this contraband without properly identifying or packaging the flammable  
7 goods in violation of the Hazardous Materials Transportation Act of 1975 as  
8 amended (49 U.S.C. §§ 5101 *et seq.*). Further, upon information and belief, Nail  
9 Supply sells its contraband through the online marketplace Amazon.com under the  
10 alias or name "La Belle B," and by and through Amazon.com sells and ships  
11 contraband goods to consumers in California. Attached herewith as Exhibit "C" is  
12 information regarding the identity of Nail Supply and its unlawful operation, which  
13 is incorporated herein by this reference.

14 10. Upon information and belief, Salon Supply is a Florida limited liability  
15 corporation with its principal place of business in Palm Beach Gardens, Florida.  
16 Upon information and belief, Salon Supply obtains, distributes, and sells Harmony  
17 Goods in violation of Plaintiffs' rights as alleged herein. Upon information and  
18 belief, Salon Supply's conduct includes, *inter alia*, removing, defacing, covering,  
19 altering, or destroying Harmony's identification codes from diverted Harmony  
20 Goods, and/or buying or receiving defaced Harmony Goods, in violation of Penal  
21 Code section 537e, as well as shipping this contraband without properly identifying  
22 or packaging the flammable goods in violation of the Hazardous Materials  
23 Transportation Act of 1975 as amended (49 U.S.C. §§ 5101 *et seq.*). Further, upon  
24 information and belief, Salon Supply owns and operates a fully interactive  
25 commercial website at the domain name [www.salonsupplystore.com](http://www.salonsupplystore.com) (the "Salon  
26 Supply Website"), and sales the contraband to consumers in California. The Salon  
27 Supply Website includes dozens of slavishly copied reproductions of the Harmony  
28 Works, or substantially similar copies of the Harmony Works, to promote and

1 perpetuate Salon Supply's unlawful conduct. Attached as Exhibit "D" is  
2 information regarding the identity of Salon Supply and its unlawful operation of the  
3 Salon Supply Website, which is incorporated herein by this reference.

4 11. The true names and capacities, whether individual, associate, corporate  
5 or otherwise of the defendants named herein as Does 1 through 30, inclusive, are  
6 unknown to Plaintiffs, who therefore sue these defendants, and each of them, by  
7 fictitious names. Plaintiffs are informed and believe that each of the Defendants  
8 designated as a Doe is responsible and liable in some manner for the acts and  
9 omissions, damages and injuries of which Plaintiffs allege in this Complaint.  
10 Plaintiffs will seek leave of court to amend their complaint to state the true names of  
11 Does 1 through 30 when ascertained.

12 12. Upon information and belief, certain Doe Defendants obtain, distribute,  
13 and/or sell Harmony Goods in violation of law and in violation of Plaintiffs' rights  
14 as alleged herein. Upon information and believe, these Doe Defendants' conduct  
15 includes, *inter alia*, removing, defacing, covering, altering, or destroying Harmony's  
16 identification codes from diverted Harmony Goods, and/or buying or receiving  
17 defaced Harmony Goods, in violation of Penal Code section 537e, and/or shipping  
18 this contraband without properly identifying or packaging the flammable goods in  
19 violation of the Hazardous Materials Transportation Act of 1975 as amended (49  
20 U.S.C. §§ 5101 *et seq.*).

21 13. Upon information and belief, certain Doe Defendants operate, own,  
22 direct, or otherwise control one or more of the other defendants, but the true  
23 identities of these Doe Defendants are presently unknown to Plaintiffs.

24 14. Upon information and belief, certain Doe Defendants have breached  
25 their distribution agreements and/or conspired with, aided or abetted, or with actual  
26 knowledge otherwise engaged in, assisted and/or facilitated the aforementioned  
27 wrongful conduct, including but not limited to violations of Penal Code section 537c  
28 and the breach of Harmony's contractual rights.

## **GENERAL ALLEGATIONS**

### **Plaintiffs and the Harmony Goods**

15. Harmony manufactures, distributes and sells, *inter alia*, professional brands of high-quality, soak-off gel polishes and other nail products and accessories in a wide variety of colors under several trademarks, including GELISH<sup>®</sup> and ARTISTIC COLOUR GLOSS<sup>®</sup>. Harmony's gel polishes and other nail products and accessories are collectively referred to herein as the "Harmony Goods." Harmony, using a limited number of qualified distributors, sells the Harmony Goods to boutiques and salons in this county and throughout the world.

16. Harmony contractually obligates distributors to sell Harmony Goods to only properly trained boutiques and salons. Selling exclusively to trained boutiques and salons is important because the gel polish requires careful application of a base coat product, a polish product and a top coat product, each of which must be properly irradiated with ultraviolet light for curing. Application by an inexperienced person without proper training and equipment may result in uncured or marred finishes. Worse, untrained/unqualified applications of any nail care product can result in bacterial infections of the nail bed or other painful or lasting injuries.

17. The Harmony Marks are protected by multiple federal trademark registrations, as well as common law rights, as defined and discussed *infra*.

18. The high quality nature of the Harmony Goods together with the distinctive Harmony Marks and distinctive, proprietary bottles, lamps and other accessories has made the Harmony Goods a phenomenal commercial success. Harmony has sold millions of bottles of its gel polish in the United States and throughout the world, and consumers recognize the Harmony Goods by, *inter alia*, the Harmony Marks and trade dresses.

19. Harmony's success in selling the Harmony Goods has attracted a large pack of unauthorized sellers eager to capitalize on Harmony's goodwill. Like many other famous trademark owners, Harmony suffers ongoing violations of intellectual




property rights at the hands infringers who operate their enterprises without regard to the harm caused to both Harmony and the unsuspecting public.

20. Harmony spends a significant amount of its resources policing and enforcing its intellectual property rights to protect consumers and itself from the corrosive impact of such unlawful merchandise. The financial burden on Harmony is staggering, as is the burden on the court system.

### **The Harmony Marks**

21. Harmony's nail care products and related accessories are made in America and are famous and known throughout the industry for their high quality, durability, ease-of-use, consistency and beauty.

22. Harmony's trademarks are inherently distinctive and protected by multiple federal trademark registrations, including the trademark registrations listed in TABLE 1 below, as well as common laws of California. True and correct copies of these federal trademark registrations are attached as Exhibit "E."

<b>Trademark</b>	<b>Reg. No.</b>	<b>Reg. Date</b>	<b>Class/Goods</b>
<b>GELISH</b>	4,096,115	2/7/2012	003 – "Nail care preparations"
	3,857,946	10/5/2010	003 – "Nail care preparations"
<b>HAND &amp; NAIL HARMONY</b>	3,750,701	2/16/2010	003 – "Artificial fingernails; cuticle conditioners; nail buffing preparations; Nail care preparations; Nail cream; Nail enamels; Nail polish; Nail polish removers; Nail tips"



<b>HAND &amp; NAIL HARMONY</b>	4,013,304	8/16/2011	003 – “Nail Polish Removers”
<b>VITAGEL</b>	4,318,850	5/25/2012	003 – “Nail care preparations”
<b>vitagel</b>	4,318,869	4/9/2013	003 – “Nail care preparations”
<b>VITAGEL BY GELISH</b>	4,511,405	4/8/2014	003 – “Nail care preparations”
<b>18G</b>	4,206,100	9/11/2012	011 – “Apparatus for drying/hardening nail finishes, polishes and varnishes, including desiccate apparatus, drying apparatus, LED type nail dryers, drying apparatus and installations, and lamps”
<b>Artistic COLOUR GLOSS</b>	4,222,433	10/9/2012	003 – “Nail care preparations”
<b>ARTISTIC COLOUR GLOSS</b>	4,222,432	10/9/2012	003 – “Nail care preparations”

TABLE 1: U.S. Registrations for Harmony Marks

23. The brand name of each Harmony color is also protected under the Lanham Act and the common laws of California. Collectively, the federal and common law trademarks identified herein are referred to as the “Harmony Marks.”

24. Over a period of years, Harmony has invested substantial time, money and other resources widely promoting the Harmony Marks in the United States and throughout the world. The Harmony Marks are symbols of Harmony's quality, reputation and goodwill and have never been abandoned. Harmony Marks, and the goods they represent, are widely promoted on the Internet and in numerous industry publications and trade shows, by Harmony and authorized distributors, among others. Harmony's promotional efforts include creating and published marketing material, including the copyright Harmony Works discussed *infra*. As a result of Harmony's efforts, the Harmony Marks have obtained a secondary meaning in the marketplace and members of the consuming public readily identify the Harmony Goods as being high quality goods sponsored and approved by Harmony.

25. The Harmony Marks have never been assigned or licensed to any of the Defendants in this matter, including for the uses of which the Harmony Marks are being wrongfully utilized. Harmony and Nail Alliance carefully monitor and police the use of the Harmony Marks and the Harmony Goods.

## Harmony's Copyrighted Works

26. As part of its efforts to market and promote the Harmony Goods, Harmony owns artistic photographs and depictions of Harmony Goods and product packaging (collectively, the “Harmony Works”), as well as in other promotional material distributed by Harmony, which constitute copyrightable subject matter under the laws of the United States.

27. Harmony obtained the United States Copyright Registrations identified below in TABLE 2. True and correct copies of such Registration Certificates for the claims of copyright from TABLE 2 are attached herewith as Exhibit “F.”

Title	Copyright No.	Reg. Date
GELISH Nail Care November 18, 2012	VA0001880732	9/3/2013
GELISH Nail Care June 18, 2012	VA0001880751	9/3/2013
GELISH Nail Bottle	VA0001880769	9/3/2013
GELISH NAIL Care August 21, 2012	VA0001880736	9/3/2013
GELISH Nail Care January 2012	VA0001880744	9/3/2013
GELISH Nail Care September 2012	VA0001874516	9/3/2013
GELISH Nail Care June 25, 2012	VA0001880735	9/3/2013
GELISH Nail Care March 8, 2012	VA0001880747	9/3/2013
GELISH May 18, 2011 Nail Care	VA0001880730	9/3/2013
GELISH Nail Care May 11, 2011	VA0001880730	9/3/2013
GELISH Nail Care June 2011	VA0001880109	9/3/2013
GELISH NAIL CARE May 19, 2011	VA0001880731	9/3/2013
GELISH Nail Care August 2, 2011	VA0001880748	9/3/2013
GELISH Nail Care March 2011	VA0001880728	9/3/2013
GELISH Nail Care August 5, 2011	VA0001880668	9/3/2013
GELISH Dark Pink Builder Gel	VA0001880742	9/3/2013
GELISH Nail Care November 11, 2011	VA0001880745	9/3/2013
GELISH Nail Care December 2010	VA0001880698	9/3/2013
GELISH Nail Care June 2010	VA0001880740	9/3/2013
Genuine Gelish Products Certified	VA0001904372	8/27/2013
Gelish Products From 1/12/13 – 4/12/13	VA0001864773	4/24/2013

TABLE 2: COPYRIGHT REGISTRATIONS

28. From 2013 until the filing of this Complaint, Harmony has complied in all respects with the Copyright Act of October 19, 1976, Title 1 § 101, 90 Stat. 2541; 17 U.S.C. § 401-412, and all other laws governing copyright.

### Harmony's Distribution Agreements

29. Harmony sells the Harmony Goods exclusively to authorized distributors. Distributors enter into an agreement with Harmony and/or Nail

1 Alliance, and these distributor agreements are valuable to Plaintiffs. Harmony  
2 distributors have agreed to distribute and sell the Harmony Goods only under certain  
3 conditions, including through promotion and development of valuable professional  
4 salon business for Harmony. Plaintiffs' distribution agreements restrict the sale of  
5 Harmony's products to licensed professionals and beauty salons in California and  
6 throughout the world. When general merchandisers sell Harmony Goods outside of  
7 the salons and licensed professionals trained to effectively use the Harmony Goods,  
8 and in particular gel polish, their conduct could injure Harmony's goodwill and  
9 reduce Harmony's sales to salon customers.

10 30. Plaintiffs' distributor agreements also inform authorized distributors of  
11 Plaintiffs' policy against diversion and expressly prohibit the sale of Harmony  
12 Goods to unauthorized distributors, redistributors, and diverters, and over the  
13 Internet (in contrast to using the Internet for promotion). The distributor agreements  
14 also require Plaintiffs' authorized distributors to carefully monitor the purchasing  
15 patterns of all its salon customers and licensed professionals.

16 **Defendants' Scheme to Violate Criminal Laws, Divert Harmony Goods, and**  
17 **Infringe Plaintiffs' Intellectual Property Rights**

18 31. Despite Harmony's efforts to control and maintain the safety and  
19 quality of the Harmony Goods throughout its supply chain and to ensure that the  
20 Harmony Goods are only sold to those who have been properly educated in the  
21 proper application of these products, the Harmony Goods are currently being  
22 diverted to unauthorized distributors.

23 32. The Harmony Goods are manufactured with identification codes, which  
24 Defendants are defacing, covering, altering, or destroying on many, if not all, of  
25 these diverted Harmony Goods in direct violation of Penal Code section 537e. Each  
26 identification code, which includes laser etching in the bottle, allow Harmony to  
27 identify the origination of the bottle. By defacing the Harmony Gods, Defendants  
28

1 are thwarting Harmony's ability to not only determine the source of the bottles, but  
2 also ensure quality control, customer service and ability to recall product.

3 33. Defendants Texas Nails, Tony Lee, Door to Door, Nail Supply, Salon  
4 Supply, and certain Doe Defendants have been buying, receiving, and/or selling  
5 diverted Harmony Goods of which Harmony's identification codes have been  
6 defaced, covered, altered, or destroyed by other Defendants. Additionally, at least  
7 some of these diverted Harmony Goods are being shipped from within this State to  
8 other states and to other countries without properly identifying and/or packaging the  
9 flammable goods in violation of the Hazardous Materials Transportation Act of  
10 1975 as amended (49 U.S.C. §§ 5101 *et seq.*).

11 34. None of the named Defendants are authorized distributors of the  
12 Harmony Goods. Nevertheless, these Defendants sell diverted Harmony Goods in  
13 direct competition with Plaintiffs and their authorized distributors.

14 35. Upon information and belief, Defendants have knowledge of the  
15 restrictions in Harmony's authorized distributor agreements concerning the sale of  
16 Harmony Goods, which restrict them from legitimately obtaining and selling over  
17 the Internet the Harmony Goods. Therefore, Defendants have resorted to improper  
18 means to divert Harmony Goods in violation of the law and in breach of Harmony's  
19 distribution agreements. Defendants' clandestine activities have prevented Plaintiffs  
20 from identifying the source of the diverted goods. It also prevents salons and  
21 boutiques from, *inter alia*, identifying the proper shelf life of those goods.

22 36. The unlawful shipment of the Harmony Goods is done outside  
23 Plaintiffs' control. Harmony is unable to observe any product defects which may be  
24 introduced during the unlawful shipping process.

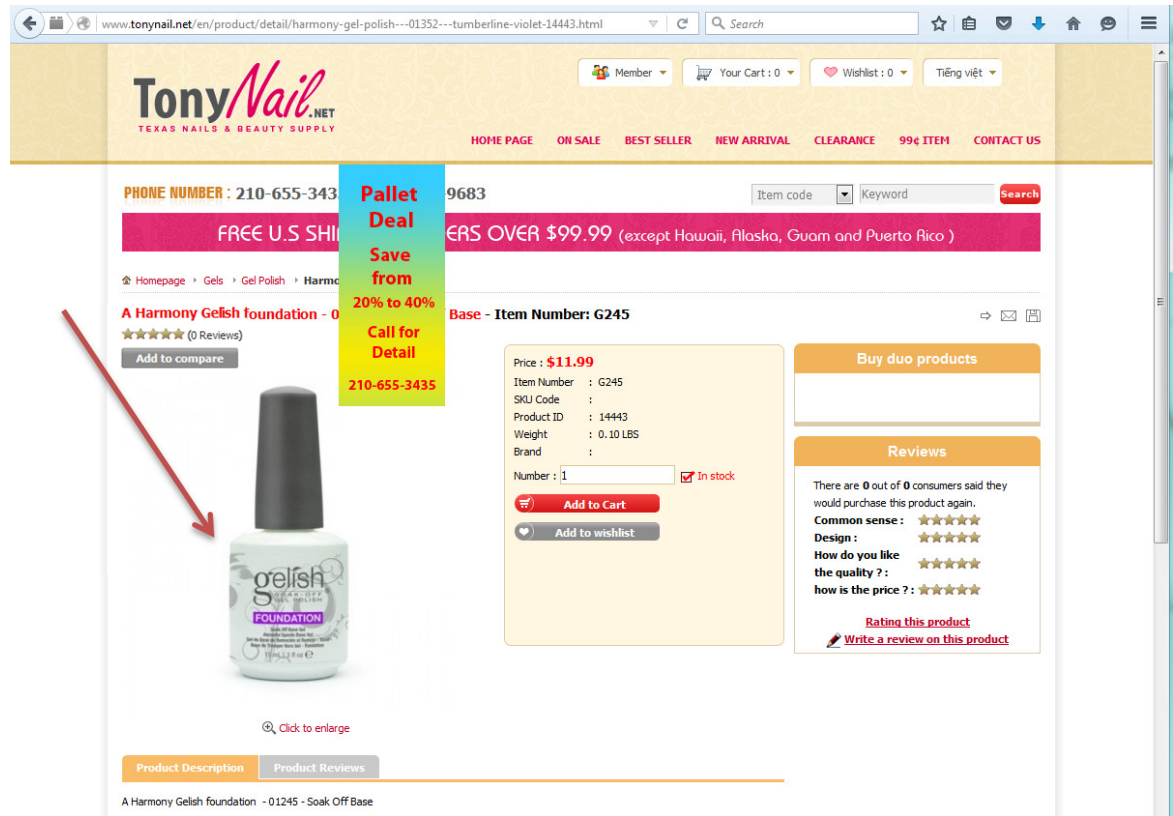
25 37. Upon information and belief, the unregulated and unlawful shipping  
26 process conducted by Defendants results in, or at least promotes an environment for  
27 generating, defective conditions of the unlawfully shipped goods.

1        38. Consumers are, and likely would be, confused or deceived that the  
2 goods sold by Defendants, and potentially being applied by untrained  
3 cosmetologists, are genuine Harmony Goods from authorized distributors.

4        39. Any changes or defects to the unlawfully shipped goods would be  
5 unknown to both Plaintiffs and the unwary consumer. Further, consumers are  
6 unlikely to know that an untrained or unlicensed individual is or might be applying  
7 the nail product to them until damage had already occurred. Thus, consumers of the  
8 diverted contraband are unlikely to know that he or she is receiving a potentially  
9 defective nail care product by a potentially untrained or unlicensed individual  
10 bearing one or more of the Harmony Marks in violation of the law and in breach of  
11 Plaintiffs' distribution agreements.

12        40. Moreover, to further increase the confusion, one or more Defendants  
13 have infringed and are infringing Harmony's registered copyrights by copying  
14 numerous photographs and images, including product images, model photographs,  
15 text and product glamour shots, protected by Harmony's Copyright Registrations on  
16 various websites, including Texas Nails Website, Door to Door Website, Salon  
17 Supply Website (collectively, the "Infringing Websites") as well as through third  
18 party websites, such as Amazon.com.

19        41. The Infringing Websites display numerous images and descriptions  
20 copied directly from Harmony's copyrighted works, as shown below:  
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Tony Nails Website – Harmony Gelish Foundation (annotated)



Harmony Works Registration No. VA 1-880-735



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**Door to Door Nail Supply**  
855 890-8890  
Free Shipping for order over \$99

Currency: € £ \$ Shopping Cart: 0 item(s) - \$0.00

Welcome visitor you can [login](#) or [create an account](#)

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Acrylic /UV Gel Base Coat/Top Coat/Nail Polish Gel Colors Manicure/Pedicure Pumice/Buffers/Files Salon Equipment Waxing / Eyelash

**Categories**

- Acrylic /UV Gel (396)
- Base Coat/Top Coat/Nail Polish (1160)
- Gel Colors (2278)**
  - LED / UV LIGHT (19)
  - Accessories (4)
  - Artistic Colour Gloss (83)
  - CND Shellac Gel (109)
  - Cuccio Match Makers (109)
  - DND Soak Off Gel Dual Set - All in one (137)
  - Essie Gel (73)
  - Essie Gel + Matching Lacquer Duo Set (86)
  - Gelish Harmony (249)
  - Ibd Just Gel Polish (164)
  - KIARA SKY GEL (120)
  - KIARA SKY GEL + LACQUER SET (89)
  - KIARA SKY GEL OMBRE (MOOD CHANGING) (22)
  - Lapalm - Gel II (140)
  - Lapalm Gel II - Reaction (27)
  - LECHAT - NOBILITY (129)
  - Lechat Mood Change (42)
  - Lechat Perfect Match Gel (165)
  - OPI Soak off Gel Color (244)
  - Signature Nail System Nail Care (SNS) (236)
  - Soak off gel top coat/base coat (30)

[Home](#) > [Gel Colors](#) > [Gelish Harmony](#) > [Gelish Soak Off 0.5 oz Gel Nail Color RENDEZVOUS - 01336](#)

## Gelish Soak Off 0.5 oz Gel Nail Color RENDEZVOUS - 01336

Brand: Gelish  
Product Code: 01336  
Availability: In Stock

**Price: \$9.99**  
Ex Tax: \$9.99

Qty: 1 [Add to Cart](#) - OR - [Add to Wish List](#) [Add to Compare](#)

★ ★ ★ ★ ★ 0 reviews | [Write a review](#)

[Share](#) [Email](#) [Facebook](#) [Twitter](#)

**Description** **Reviews (0)**

**Rendezvous**

These gels come in an array of fun colors. It applies like polish, with twist cap and applicator, but are cured in a LED lamp in 30 seconds or in 2 minutes in traditional UV lamps. Gelish stays on nails for three weeks with no chipping or peeling, and soak completely off in only 15 minutes.

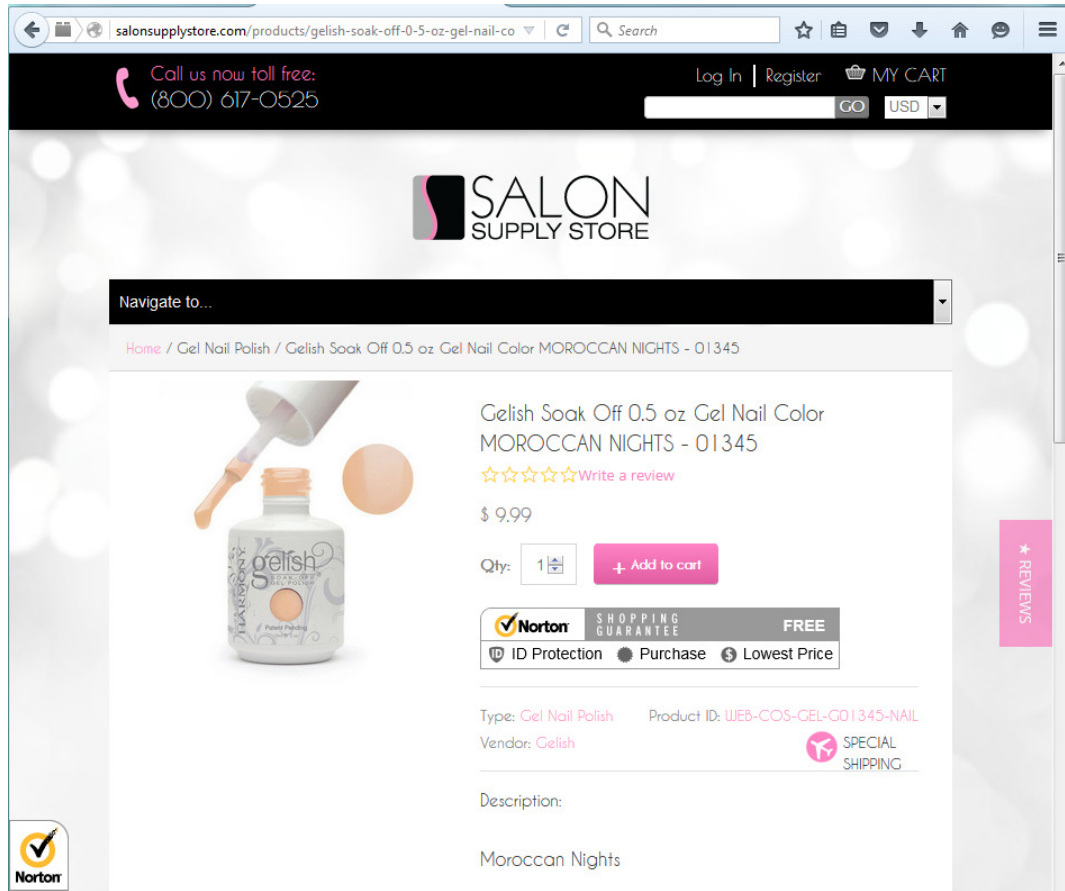
- Easy Application
- Chip Resistant
- Stays on for up to 3 weeks
- Perfect for a Do-It-Yourself Mani or Pedi

Tags: [Gelish](#)

18 Door to Door Website – Harmony Gelish Rendezvous Page (annotated)



27 Harmony Work Registration No. VA 1-880-745



Salon Supply Website – Morroccan Nights Page



Harmony Work Registration No. VA 1-880-747

42. In fact, one or more Infringing Websites present numerous Harmony Goods for sale on *each* webpage, and the advertisements of the Harmony Goods copies or at least utilizes a confusingly similar depiction of a copyrighted Harmony Work. Exhibits “A,” “B,” and “D” include printouts from the Infringing Websites showing the extent of Harmony Goods for sale on each Infringing Website. Attached herewith as Composite Exhibit “G” are spreadsheets demonstrating the rampant copyright infringement on the Infringing Websites.

43. Because Harmony incorporates a copyright notice on its copyrighted materials, Defendants were on actual or constructive notice that Harmony owns all rights in the copyrighted works.

44. Plaintiffs have performed or satisfied all pre-conditions to this action or any such actions have been waived by Defendants.

### **FIRST CAUSE OF ACTION FOR UNFAIR COMPETITION**

**(Bus. & Prof. Code §§ 17200 *et seq.*)**

**(Against All Defendants)**

45. Plaintiffs repeat and reallege the allegations in Paragraphs 1 to 44 above as if fully set forth herein.

46. Defendants’ wrongful conduct, as alleged herein, constitutes unlawful, unfair and/or fraudulent acts or practices as defined by California’s Unfair Competition Law (Bus. & Prof. Code §§ 17200 *et seq.*).

47. Defendants are either directly, in conspiracy with the other defendants, or with actual knowledge of the other defendants’ wrongful conduct, substantially assisting the other defendants, engaging in unlawful business practices, including:

- a. Knowingly buying, selling, receiving, disposing of by shipping out of this State, and/or possessing the Harmony Goods from which Harmony’s identification codes have been removed, defaced, covered, altered, or destroyed, in direct violation of California Penal Code section 537e; and/or

1           b. Shipping the diverted Harmony Goods without properly  
2           identifying and packaging the flammable goods in violation of  
3           the Hazardous Materials Transportation Act of 1975 as  
4           amended (49 U.S.C. §§ 5101 *et seq.*).

5           48. In addition, Defendants have either directly, in conspiracy with the  
6 other defendants, or with actual knowledge of the other defendants' wrongful  
7 conduct, substantially assisted the other defendants to engage in unfair and  
8 deceptive practices by, among other things:

9           a. Misleading consumers into believing that Defendants are  
10           authorized by Harmony to distribute Harmony Goods; and/or

11           b. Failing to inform customers that Harmony's identification  
12           codes have been removed from the diverted Harmony Goods  
13           that they offer for sale, and that as such those goods are not  
14           subject to the quality controls established by Harmony, and that  
15           the diverted Harmony Goods are not entitled to Harmony's  
16           warranty and other support services, such as notice of any  
17           product recalls.

18           49. Defendants' wrongful conduct has caused Plaintiffs to suffer a loss of  
19 money or property within the meaning of the statute, including (a) lost sales due to  
20 the unfair competition, (b) price erosion due to the unfair competition and  
21 undercutting of price due to, *inter alia*, the unlawful transportation of goods, (c) the  
22 costs of investigating whether the diverted Harmony Goods are counterfeit goods or  
23 altered Harmony Goods, and (d) monetary harm due to the injury to the goodwill  
24 associated with the Harmony Marks.

25           50. Defendants' wrongful conduct, unless restrained by order of this Court,  
26 will continue to cause Plaintiffs to suffer a loss of money or property within the  
27 meaning of the statute and will continue to cause irreparable harm to Plaintiffs and  
28

1 the consumer public at large. Plaintiffs have no adequate remedy at law to prevent  
2 such irreparable harm.

3 51. As a result of Defendants' wrongful acts in violation of California's  
4 Unfair Competition Law, Plaintiffs are entitled to preliminary and permanent  
5 injunctive relief, prohibiting Defendants from transporting, delivering, selling,  
6 buying, or even possessing any Harmony Goods on which Harmony's identification  
7 codes have been rendered ineligible, from shipping any Harmony Goods in violation  
8 of the Hazardous Materials Transportation Act, from engaging in any conduct that  
9 would tend to mislead the public into believe that Defendants are authorized by  
10 Harmony to distribute Harmony Goods, and alternative equitable relief, including  
11 restitution and disgorgement of profits.

12 **SECOND CAUSE OF ACTION FOR FEDERAL TRADEMARK**

13 **INFRINGEMENT**

14 **(15 U.S.C. § 1114)**

15 **(Against All Defendants)**

16 52. Plaintiffs restate and reassert each and every allegation set forth in  
17 paragraphs 1 through 51 above as if full set forth in this count.

18 53. Plaintiffs are the exclusive owners of the Harmony Marks.

19 54. Defendants have intentionally and willfully used and continue to use  
20 the Harmony Marks in connection with goods or services in commerce without  
21 Plaintiffs' authorization, in a manner that is likely to cause confusion, to cause  
22 mistake, or to deceive. Thus, Defendants actions constitute trademark infringement  
23 under 15 U.S.C. § 1114.

24 55. Defendants have either directly, in conspiracy with the other  
25 defendants, or with actual knowledge of the other defendants' wrongful conduct,  
26 removed and/or substantially assisted the other defendants to remove Harmony's  
27 identification codes from the Harmony Goods, and then buy, sell, ship and/or  
28 receive the Harmony Goods without Harmony's identification codes. Harmony's

1 identification codes are designed to, *inter alia*, assist Harmony and its agents in  
2 quality control and detection of counterfeits. Defendants' actions have interfered  
3 with Harmony's ability to control the quality of its Harmony Goods and has subject  
4 Plaintiffs' to the risk of injury to the reputation of the Harmony Marks.

5 56. Additionally, the appearance of the bottles associated with the  
6 Harmony Goods and Harmony Marks is material to the consumer decision to  
7 purchase the Harmony Goods. The grinding or removal of the identification codes  
8 degrades the appearance of the bottles. It also restricts boutiques from knowing the  
9 shelf life of the diverted goods. Accordingly, the Harmony Goods Defendants  
10 distribute are materially different from those originally sold by Harmony.

11 57. As a direct and proximate result of Defendants' infringement of  
12 Plaintiffs' Harmony Marks, Plaintiffs have suffered and continue to suffer damages  
13 to their business, goodwill, and property in an amount not less than \$100,000 per  
14 Defendant, with the precise amount to be ascertained at trial.

15 58. Unless immediately restrained and enjoined by this Court under 15  
16 U.S.C. § 1116 and the equitable powers of this Court, Defendants will persist in  
17 their activities, thereby causing Plaintiffs additional irreparable harm.

18 59. Plaintiffs are informed and believe that this case qualifies as an  
19 exceptional case for which this Court should award attorney's fees pursuant to 15  
20 U.S.C. § 1117(a).

21 **THIRD CAUSE OF ACTION FOR FEDERAL UNFAIR COMPETITION**

22 **(15 U.S.C. § 1125(a))**

23 **(Against All Defendants)**

24 60. Plaintiffs restate and reassert each and every allegation set forth in  
25 paragraphs 1 through 51 above as if fully set forth in this count.

26 61. Plaintiffs are the exclusive owners of the Harmony Marks.

27 62. Defendants have intentionally and willfully used and continue to use  
28 the Harmony Marks in connection with goods or services in commerce without

1 Plaintiffs' authorization, in a manner that is likely to cause confusion, to cause  
2 mistake, or to deceive. Thus, Defendants actions constitute federal unfair  
3 competition under 15 U.S.C. § 1125(a).

4 63. Defendants have either directly, in conspiracy with the other  
5 defendants, or with actual knowledge of the other defendants' wrongful conduct,  
6 substantially assisted the other defendants to remove Harmony's identification codes  
7 from the Harmony Goods that Defendants sell by grinding the identification codes  
8 out of the bottles and then buying, selling, and/or shipping the Harmony Goods  
9 without Harmony's identification codes. Harmony's identification codes are  
10 designed to, *inter alia*, assist Harmony and its agents in quality control and detection  
11 of counterfeits.

12 64. Defendants do not inform consumers or potential consumers that the  
13 diverted Harmony Goods have been altered in such a way that those goods are not  
14 subject to the quality controls established by Harmony. To the contrary, Defendants  
15 intentionally and willfully mislead consumers into believe that they are authorized  
16 Harmony distributors.

17 65. Defendants' actions have interfered with Harmony's ability to control  
18 the quality of its Harmony Marks and have subject Plaintiffs to the risk of injury to  
19 reputation of the Harmony Marks by consumer association of Defendants with the  
20 Harmony Marks and Plaintiffs.

21 66. As a direct and proximate result of Defendants' infringement of  
22 Plaintiffs' Harmony Marks, Plaintiffs have suffered and continue to suffer damages  
23 to their business, goodwill, and property in an amount not less than \$100,000 per  
24 Defendant, with the precise amount to be ascertained at trial.

25 67. Unless immediately restrained and enjoined by this Court under 15  
26 U.S.C. § 1116 and the equitable powers of this Court, Defendants will persist in  
27 their activities, thereby causing Plaintiffs additional irreparable harm.

28



1        68. Plaintiffs are informed and believe that this case qualifies as an  
2 exceptional case for which this Court should award attorney's fees pursuant to 15  
3 U.S.C. § 1117(a).

4        **FOURTH CAUSE OF ACTION FOR COPYRIGHT INFRINGEMENT**

5                    **(Against Texas Nails, Tony Lee, and Door to Door)**

6                    **(17 U.S.C. § 501)**

7        69. Plaintiffs restate and reassert each and every allegation set forth in  
8 paragraphs 1 through 44 above as if fully set forth in this count.

9        70. The Harmony Works were registered with the U.S. Copyright Office  
10 prior to the institution of this action.

11        71. The copyrighted Harmony Works, including the advertising artwork of  
12 Harmony Products described herein, constitute copyrightable subject matter under  
13 United States law.

14        72. Harmony is the exclusive owner to the copyrighted Harmony Works.  
15 No license or authorization has ever been granted to defendants Texas Nails, Tony  
16 Lee, or Door to Door (herein the "Copyright Defendants") for the use any of the  
17 Harmony works.

18        73. Copyright Defendants have intentionally and willfully infringed  
19 Harmony's copyrights by their unauthorized copying of the copyrighted Harmony  
20 Works on the Infringing Websites.

21        74. Copyright Defendants have the right and ability to supervise the  
22 infringing activity occurring on the Infringing Websites. Copyright Defendants  
23 operate the Infringing Websites and have the ability to control the content on the  
24 Infringing Websites, including the publishing of the copyrighted Harmony Works.

25        75. Copyright Defendants also have a financial interest in continuing the  
26 unlawful activity and rampant copyright infringement occurring on the Infringing  
27 Websites. Copyright Defendants are profiting from the unlawful business.

1        76. Copyright Defendants are vicariously liable for the ongoing and  
2 rampant infringement of copyrighted Harmony Works on the Infringing Websites.

3        77. Copyright Defendants knew or should have known of the copyright  
4 infringement occurring on the Infringing Websites. Copyright Defendants  
5 intentionally and willfully copied the Harmony Works in support of sales of their  
6 unlawful sales and shipments of diverted goods.

7        78. Copyright Defendants induced, caused, or materially contributed to the  
8 infringing conduct. Copyright Defendants, as the owners and operators of the  
9 Infringing Websites, actively control and contribute to the infringing content on the  
10 Infringing Websites.

11        79. Copyright Defendants are liable for contributing to the ongoing and  
12 rampant infringement of copyrighted Harmony Works on the Infringing Websites.

13        80. As a proximate result of Copyright Defendants' unlawful copying,  
14 Copyright Defendants have been unjustly enriched while Plaintiffs and its  
15 authorized distributors have suffered damages.

16        81. Plaintiffs are entitled to recover from Copyright Defendants statutory  
17 damages pursuant to 17 U.S.C. §504(c) and/or actual damages which they have  
18 sustained and will sustain as a result of Defendants' wrongful copying. Plaintiffs  
19 actual damages are not less than \$100,000 per Defendant, the precise amount to be  
20 determined at trial.

21        82. Plaintiffs are also entitled to recover from Copyright Defendants the  
22 profits that Copyright Defendants have obtained as a result of the wrongful conduct  
23 alleged herein. At this time, Plaintiffs cannot presently ascertain Copyright  
24 Defendants' profits, but are entitled to an accounting from each Copyright  
25 Defendant to permit Plaintiffs to determine the profits gained by Copyright  
26 Defendants' unlawful conduct.

27        83. Given the nature of the wrongful conduct, Plaintiffs have no adequate  
28 remedy at law. Monetary compensation will not afford Plaintiffs full and adequate

1 relief. Copyright Defendants' wrongful conduct should be preliminarily and  
2 permanently enjoined, otherwise Plaintiffs will continue to suffer irreparable and  
3 ongoing harm.

4 84. The unlawful acts of Copyright Defendants described herein were  
5 conducted willfully, fraudulently, and/or maliciously. Therefore, Plaintiffs are  
6 entitled to recover punitive and/or enhanced damages, including treble damages.

7 85. Plaintiffs also are entitled to recover their costs and attorneys' fees as a  
8 result of Copyright Defendants' copyright infringement.

9 **FIFTH CAUSE OF ACTION FOR BREACH OF CONTRACT**

10 **(Doe Defendants)**

11 86. Plaintiffs repeat and reallege the allegations in Paragraphs 1 to 44  
12 above as if fully set forth herein.

13 87. Harmony has entered into a valid and enforceable distribution  
14 agreements with one or more Doe Defendants.

15 88. These distributor Doe Defendants have breached their distribution  
16 agreement by, *inter alia*, selling to unauthorized distributors, redistributors, or  
17 diverters, including other Defendants in this Action, or otherwise facilitating the  
18 general merchandizing of Harmony Goods over the Internet.

19 89. Upon information and belief, each authorized distributor Doe  
20 Defendant has also breached its distribution agreement by removing, obliterating, or  
21 tampering with the contents, packaging, labeling or batch or other codes on the  
22 Harmony Goods purchased from Harmony, and/or by conspiring or aiding and  
23 abetting such misconduct by one or more other Defendants.

24 90. The Doe Defendants breaches of contract have cause Plaintiff damages  
25 in an amount not less than \$1,000,000, the precise amount to be proven at trial.

26 91. Harmony seeks all appropriate relief, including but not limited to  
27 compensatory and consequential damages, declaratory, injunctive and restitutionary  
28 relief, costs, interests and if provided by contract an award of attorneys' fees.

**SIXTH CAUSE OF ACTION FOR INTERFERENCE WITH**  
**CONTRACTUAL RELATIONS AND/OR PROSPECTIVE BUSINESS**  
**ADVANTAGES**

**(Against All Named Defendants and**

**Doe Defendants Not Subject to the Fifth Cause of Action)**

92. Plaintiffs restate and reallege the allegations in Paragraphs 1 to 44 and 86 to 91 above as if fully set forth herein.

93. Plaintiffs have contracts with certain authorized distributors, one or more of which is breaching their distribution agreements. Harmony distributors have agreed to distribute and sell the Harmony Goods pursuant to certain terms and conditions, which are known to Defendants. Plaintiffs' agreement and policies with their authorized distributors prohibit diversion and the selling of Harmony Goods on the Internet without Harmony's advanced approval.

94. Harmony's distribution agreements also are designed to restrict the sale of the Harmony Goods to licensed salons with properly trained cosmetologists.

95. When general merchandisers sell Harmony Goods outside the authorized distribution network, their conduct damages Plaintiffs' goodwill and could endanger end-user customers who may receive nail care services from untrained individuals. Defendants know and have access to this information.

96. Plaintiffs are informed and believe that Defendants know of the existence of the Harmony distribution agreements and know of the restrictions concerning the Harmony Products, and reasons therefore.

97. On information and belief, Defendants intended to cause breaches by authorized Harmony distributors of their contractual obligations with Harmony so that those distributors would sell Harmony Goods to Defendants. Defendants' conduct was a substantial factor in making Plaintiffs' performance of their contracts with the Harmony distributors more difficult, more expensive and less profitable.

1        98. As a result of the conduct of Defendants, Plaintiffs' contractual  
2 relationships have been harmed, breached and disrupted. Plaintiffs have suffered  
3 damages as a result of Defendants' conduct, including increased costs and reduced  
4 revenues with its authorized dealers, as their customers have purchased fewer  
5 Harmony Goods than they otherwise would have purchased. Plaintiffs have  
6 suffered actual damages of at least \$500,000 per Defendant, with the precise amount  
7 to be determined at trial.

8        99. On information and belief, Defendants intentionally interfered with the  
9 economic relationships between Plaintiffs and their authorized distributors, both  
10 existing and prospective, that were likely to have resulted in an economic benefit to  
11 Plaintiffs. Alternatively, Defendants knew or should have known of these  
12 relationships between Plaintiffs and its existing and prospective authorized  
13 distributors. Defendants knew or should have known that these relationships would  
14 be disrupted if Defendants failed to act with reasonable care. Defendants failed to  
15 act with reasonable care by conducting their unlawful activity as described herein.

16        100. As a proximate result of Defendants' intentional, reckless or at least  
17 negligent wrongful actions, the relationships between Plaintiffs and their existing  
18 and prospective authorized distributors have been disrupted and Plaintiffs have been  
19 harmed. The wrongful conduct described herein was a substantial factor in causing  
20 harm to the Plaintiffs. Plaintiffs have suffered damages as a result of this unlawful  
21 conduct, including decreased revenues as customers have purchased fewer Harmony  
22 Goods than they otherwise would have.

23        101. Plaintiffs have no adequate remedy at law. Monetary compensation  
24 will not afford Plaintiffs adequate relief. Unless Defendants are preliminarily and  
25 permanently enjoined, Plaintiffs will continue to suffer irreparable and ongoing  
26 harm. Thus, Defendants should be preliminarily and permanently enjoined from  
27 further interfering with Plaintiffs' existing and prospective business relationships.  
28

102. Defendants' wrongful acts were conducted willfully, fraudulently, and/or maliciously, and therefore Plaintiffs are entitled to punitive damages.

**PRAYER FOR RELIEF**

103. WHEREFORE, Plaintiffs demand judgment on all Counts of this Complaint and entry of an award of equitable relief as follows:

A. That Defendants, and each of their agents, servants, employees, officers, attorneys, successors and assigns, and all persons acting in concert with them, be enjoined in this and all other judicial districts of the United States, preliminarily, during the course of this litigation and permanently from: (i) distributing, selling, offering for sale, holding for sale or advertising any products, merchandise or goods bearing the Harmony Marks and/or other indicia of the Harmony Goods in which the Harmony identification codes have been rendered illegible; (ii) shipping any Harmony Goods without properly identifying and packaging the flammable goods as required by the Hazardous Materials Transportation Act of 1975; (iii) making any representations that are likely to mislead consumers into believe they are Authorized Harmony Distributors or that Plaintiffs approve of Defendants' distribution of any Harmony Goods; (iv) contacting any Authorized Harmony Distributor with regard to purchasing Harmony Goods, and (v) with respect to the Copyright Defendants, copying, reproducing or publishing any copyrighted work owned by Plaintiffs including the Harmony Works.

B. That Defendants account to and pay Plaintiffs for all profits and actual damages resulting from Defendants unlawful activities.

C. That Defendants surrender to Plaintiffs all unlawfully obtained Harmony Goods, including any Harmony Goods having defaced or obliterated identification codes, in Defendants' possession or control.

- 1 D. That Copyright Defendants pay to Plaintiffs statutory damages pursuant  
2 to 17 U.S.C. §504 for willful direct, vicarious, and/or contributory  
3 copyright infringement for the willful infringement of dozens of  
4 copyrighted Harmony works.
- 5 E. That Defendants pay to Plaintiffs punitive and/or enhanced damages,  
6 including treble damages where appropriate.
- 7 F. That Defendants pay to Plaintiffs pre-judgment interest on its  
8 respective judgment.
- 9 G. That Defendants pay to Plaintiffs their costs, reasonable attorney's fees,  
10 and investigative fees.
- 11 H. That Defendants pay to Plaintiffs such other and further relief as this  
12 Court deems just and proper.
- 13

14 DATED this 17th day of December, 2015

15 Respectfully submitted,

16  
17 /s/ Todd M. Malynn  
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